

## § 435.1006

## 42 CFR Ch. IV (10-1-00 Edition)

### § 435.1006 Recipients of optional State supplements only.

FFP is available in expenditures for services provided to individuals receiving optional State supplements but not receiving SSI, if their income before deductions, as determined by SSI budget methodology, does not exceed 300 percent of the SSI benefit amount payable under section 1611(b)(1) of the Act to an individual who has no income and resources.

[45 FR 24887, Apr. 11, 1980]

### § 435.1007 Categorically needy, medically needy, and qualified Medicare beneficiaries.

(a) FFP is available in expenditures for covered services provided to categorically needy recipients, medically needy recipients, and qualified Medicare beneficiaries, subject to the restrictions contained in subpart K of this part and as provided in paragraphs (b) and (e) of this section. However, the restrictions listed in paragraphs (b) and (e) of this section do not apply to expenditures for medical assistance made on behalf of qualified Medicare beneficiaries under section 1905(p) of the Act; individuals receiving Medicaid as categorically needy under section 1902(a)(10)(A)(i) (I), (II), (III), (IV), (V), (VI), or (VII) and section 1902(a)(10)(A)(ii) (I), (IX), or (X) of the Act; individuals who are eligible to receive benefits (or would be eligible for those benefits if they were not in a medical institution); and any individuals deemed to be members of the groups identified in this sentence.

(b) Except as provided in paragraphs (c) and (d) of this section, FFP is not available in State expenditures for individuals (including the medically needy) whose annual income after deductions specified in § 435.831 (a) and (c) does not exceed the following amounts, rounded to the next higher multiple of \$100.

(1) For individuals, 133⅓ percent of the highest money payment amount most frequently made to one-person families without income and resources under the State's AFDC plan.

(2) For couples and families of two or more, 133⅓ percent of the highest money payment most frequently made under the State's AFDC plan to a fam-

ily of the same size without income and resources. If the State's AFDC plan specifies a maximum family size beyond where there is no increase in benefits, the medically needy income levels for families whose size exceeds that maximum will be determined by adding an amount for each family member over the maximum size. These amounts must be reasonably related to the amounts by which the State's AFDC plan increases benefits for additional family members in families below the maximum size.

(c) In the case of a family consisting only of two individuals, both of whom are adults and at least one of whom is aged, blind, or disabled, the State of California may use the amount of the AFDC payment most frequently made to a family of one adult and two children for purposes of computing the 133⅓ percent limitation (under the authority of section 4106 of Public Law 100-230).

(d) For purposes of paragraph (b)(1) of this section, a State that as of June 1, 1989, has in its State plan (as defined in section 2373(c)(5) of Public Law 98-369 as amended by section 9 of Public Law 100-93) an amount for individuals that was reasonably related to 133⅓ percent of the highest amount of AFDC which would ordinarily be paid to a family of two without income or resources may use an amount based upon a reasonable relationship to such an AFDC standard for a family of two.

(e) FFP is not available in expenditures for services provided to categorically needy and medically needy recipients subject to the FFP limits if their annual income, after the cash assistance income deductions are applied and before the less restrictive income deductions under § 435.601(c) are applied, exceeds the 133⅓ percent limitation described under paragraphs (b), (c), and (d) of this section.

[58 FR 4933, Jan. 19, 1993]

### § 435.1008 Institutionalized individuals.

(a) FFP is not available in expenditures for services provided to—

(1) Individuals who are inmates of public institutions as defined in § 435.1009; or

(2) Individuals under age 65 who are patients in an institution for mental diseases unless they are under age 22 and are receiving inpatient psychiatric services under § 440.160 of this subchapter.

(b) The exclusion of FFP described in paragraph (a) of this section does not apply during that part of the month in which the individual is not an inmate of a public institution or a patient in an institution for tuberculosis or mental diseases.

(c) An individual on conditional release or convalescent leave from an institution for mental diseases is not considered to be a patient in that institution. However, such an individual who is under age 22 and has been receiving inpatient psychiatric services under § 440.160 of this subchapter is considered to be a patient in the institution until he is unconditionally released or, if earlier, the date he reaches age 22.

[43 FR 45204, Sept. 29, 1978, as amended at 50 FR 13199, Apr. 3, 1985; 50 FR 38811, Sept. 25, 1985]

#### § 435.1009 Definitions relating to institutional status.

For purposes of FFP, the following definitions apply:

*Active treatment in intermediate care facilities for the mentally retarded* means treatment that meets the requirements specified in the standard concerning active treatment for intermediate care facilities for persons with mental retardation under § 483.440(a) of this subchapter.

*Child-care institution* means a non-profit private child-care institution, or a public child-care institution that accommodates no more than twenty-five children, which is licensed by the State in which it is situated, or has been approved by the agency of the State responsible for licensing or approval of institutions of this type, as meeting the standards established for licensing. The term does not include detention facilities, forestry camps, training schools or any other facility operated primarily for the detention of children who are determined to be delinquent.

*In an institution* refers to an individual who is admitted to live there and receive treatment or services pro-

vided there that are appropriate to his requirements.

*Inmate of a public institution* means a person who is living in a public institution. An individual is not considered an inmate if—

(a) He is in a public educational or vocational training institution for purposes of securing education or vocational training; or

(b) He is in a public institution for a temporary period pending other arrangements appropriate to his needs.

*Inpatient* means a patient who has been admitted to a medical institution as an inpatient on recommendation of a physician or dentist and who—

(1) Receives room, board and professional services in the institution for a 24 hour period or longer, or

(2) Is expected by the institution to receive room, board and professional services in the institution for a 24 hour period or longer even though it later develops that the patient dies, is discharged or is transferred to another facility and does not actually stay in the institution for 24 hours.

*Institution* means an establishment that furnishes (in single or multiple facilities) food, shelter, and some treatment or services to four or more persons unrelated to the proprietor.

*Institution for mental diseases* means a hospital, nursing facility, or other institution of more than 16 beds that is primarily engaged in providing diagnosis, treatment or care of persons with mental diseases, including medical attention, nursing care and related services. Whether an institution is an institution for mental diseases is determined by its overall character as that of a facility established and maintained primarily for the care and treatment of individuals with mental diseases, whether or not it is licensed as such. An institution for the mentally retarded is not an institution for mental diseases.

*Institution for the mentally retarded or persons with related conditions* means an institution (or distinct part of an institution) that—

(a) Is primarily for the diagnosis, treatment, or rehabilitation of the mentally retarded or persons with related conditions; and